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MAY 08 2012

CLERK, U.S. DISTRICT COURT
DISTRICT OF MONTANA
HELENA

Check the box next to the best description
of your cause of action. Choose only one:

Prisoner Civil Rights ☐
Non-Prisoner Civil Rights ☐
Personal Injury/Tort ☒
Tax Collection Practices ☐
Employment Discrimination ☐
Other (specify) _____ ☐

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

HELENA DIVISION
(You must fill in this blank. See Instruction 6.)

ROBERT WEBB #2136347

Cause No. _____
(to be filled in by Clerk of Court)

(Enter above the full name of each plaintiff,
including prisoner number, if any.)

Plaintiffs,

vs.

COMPLAINT

Jury Trial Demanded ☒
Jury Trial Not Demanded ☐

GAYLE LAMBERT, ROSS

WAGNER, DAVE MILLER,

DALE SOLOMON GERALD ROSELEIP
(Enter above the full name of each defendant.)

Defendants.

INSTRUCTIONS

1. Use this form to file a civil complaint with the United States District Court for the District of Montana. You may attach additional pages where necessary.
2. Your complaint must include only counts/causes of action and facts – not legal arguments or citations.
3. Your complaint must be typed or legibly handwritten. All pleadings and other papers submitted for filing must be on 8 1/2" x 11" paper (letter size). Each plaintiff must sign the complaint (see page 6). The signatures need not be notarized. However, each signature must be an original and not a copy. You must pay the Clerk for

Plaintiff's Last Name WEBB

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copies of your complaint or other court records, even if you are proceeding in forma pauperis.

4. Through April 9, 2006, the filing fee for a complaint is \$250.00. Beginning on April 10, 2006, the filing fee for a complaint is \$350.00. The filing fee is set by Congress and cannot be changed by the Court. In addition, you will be required to pay the cost of serving the complaint on each of the defendants. If you are unable to prepay the entire filing fee and service costs for this action, you may move to proceed in forma pauperis. ***Your complaint will be returned to you without filing if it is not accompanied by either the full filing fee or a motion to proceed in forma pauperis.*** Please note that prisoners proceeding in forma pauperis are required to pay the full filing fee in installments.
5. Complaints submitted by persons proceeding in forma pauperis and complaints submitted by prisoners suing a governmental entity or employee are reviewed by the Court before the defendants are required to answer. See 28 U.S.C. §§ 1915(e)(2), 1915A(a); 42 U.S.C. § 1997e(c). After the Court completes the review process, you will receive an Order explaining the findings and any further action you may or must take. The review process may take a few months; each case receives the judge's individual attention.
6. The case caption (page 1 of this form) must indicate the proper Division for filing. A Division where the alleged wrong(s) occurred is a proper Division. When you have completed your complaint, mail the *original* of your complaint and either the full filing fee or your motion to proceed in forma pauperis to the proper Division:

Billings Division: Clerk of U.S. District Court, 316 N. 26th, Room 5405, Billings, MT 59101
(Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, Wibaux or Yellowstone County)

Butte Division: Clerk of U.S. District Court, 400 N. Main St., Federal Bldg. Rm. 303, Butte, MT 59701
(Beaverhead, Deer Lodge, Gallatin, Madison, or Silver Bow County)

Great Falls Division: Clerk of U.S. District Court, 215 1st Ave. North, P.O. Box 2186, Great Falls, MT 59403
(Blaine, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, or Valley County)

Helena Division: Clerk of U.S. District Court, Paul G. Hatfield Courthouse, 901 Front St., Ste 2100, Helena, MT 59626
(Broadwater, Jefferson, Lewis & Clark, Meagher, or Powell County)

Missoula Division: Clerk of the U.S. District Court, 201 E. Broadway, P.O. Box 8537, Missoula, MT 59807
(Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli, or Sanders County)

COMPLAINT

I. PLACE OF CONFINEMENT:

- A. Are you incarcerated? Yes ☒ No ☐ (if No, go to Part II)
- B. If yes, where are you currently incarcerated? MONTANA STATE PRISON DEER LODGE, MT 59722
- C. If any of the incidents giving rise to your complaint occurred in a different facility, list that facility:

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II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

A. Non-Prisoners

1. Does any cause of action alleged in this complaint require you to exhaust administrative remedies before filing in court? Yes ☐ No ☐ Don't Know ☒
2. If yes, have you exhausted your administrative remedies? Yes ☐ No ☐

B. Prisoners (If you listed other institutions in I.C above, please answer for each institution).

1. Is there a grievance procedure in your current institution? Yes ☒ No ☐
2. Did you file an administrative grievance based upon the same facts which form the basis of this lawsuit? Yes ☐ No ☒
3. If you did not file an administrative grievance, explain why:

THIS IS ABOUT UNSAFE WORKING CONDITIONS, UNSAFE EQUIPMENT I WAS OPERATING ON MY JOB.

III. PARTIES TO CURRENT LAWSUIT

A. Name of Plaintiff ROBERT WEBB

Mailing Address 700 CONLEY LAKE RD. DEER LODGE, MT 59722

(Please use additional sheets of paper to provide the names and addresses of any additional plaintiffs.)

B. Defendant GAYLE LAMBERT is employed as

HEAD OF M.C.E. at MONTANA STATE PRISON
(Position and Title, if any) (Institution/Organization)

Defendant ROSS WAGNER is employed as

RANCH SUPERINTENDENT at (M.C.E.) MONTANA STATE PRISON
(Position and Title, if any) (Institution/Organization)

Defendant DAVE MILLER is employed as

HEAD OF THE DAIRY at (M.C.E.) MONTANA STATE PRISON
(Position and Title, if any) (Institution/Organization)

Defendant DALE SOLOMON is employed as

DAIRY SUPERVISOR at (M.C.E.) MONTANA STATE PRISON
(Position and Title, if any) (Institution/Organization)

Defendant GERALD ROSELEIP is employed as

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DAILY SUPERVISOR
(Position and Title, if any)

at (M.C.E.) MONTANA STATE PRISON
(Institution/Organization)

(Please use additional sheets of paper to provide the same information about any additional defendants.)

IV. STATEMENT OF CLAIMS

A. Count I (State your cause of action, e.g., violation of civil rights):

1. Supporting Facts (State, as briefly as possible, the facts of your case, including specific dates and locations. Do not give any legal arguments or cite cases or statutes.):

2. Defendants Involved (List the name of each defendant you intend to name in this claim. Specifically describe how each defendant is personally involved and what they did or did not do):

If you have additional counts/causes of action, attach extra sheets. Set forth two paragraphs for each count, one consisting of Supporting Facts (following the directions under IV.A(1)), and one consisting of Defendants Involved (following the directions under IV.A(2)).

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IV. STATEMENT OF CLAIMS

Supporting Facts:

I began working at the M.C.E dairy on January 13, 2011. I was injured on December 29, 2011, almost a year after I started working there. I was injured while running a grain auger which was missing its protective safety guard. This guard was taken off this piece of equipment by Joe Baugman (an inmate) around six years before my accident. Being new to this kind of work, I was not aware that this auger had a safety guard or that it was missing. The day after my injury the guard was reinstalled on the auger, and it is on there to this day. That it was removed in the first place was common knowledge among all three dairy supervisors named in this lawsuit.

I was injured while running this auger. If the guard had been on it, I would have been okay. But it was not, basically out of convenience. Evidently, the auger was easier to operate without the guard on it.

I suffered physical and mental injuries which are well documented. And I am not healed from this injury; I may never be right again. That is the main reason I am bringing this action. I continue to be in pain, and I continue to have difficulty getting around. Running is out of the question.

The injury is to my left foot. My big toe is still discolored over four months later. I suffer post-traumatic stress from being trapped for over 30 minutes. There are medical records to back all these claims.

IV. STATEMENT OF CLAIMS

2.) Defendants Involved:

Gail Lambert - She is in charge of all M.C.E. operations. She is ultimately responsible for everything that happens at M.C.E. This includes what goes on at the dairy.

Ross Wagner - In the chain of command, he is directly below Gail Lambert. He oversees the dairy as well as several other M.C.E. operations.

Dave Miller - He is the head supervisor of the dairy. He is familiar with the piece of equipment that injured me, the grain auger that was missing its protective guard. He watched as I used this auger (without the guard) on several occasions.

Dale Solomon - He is also a dairy supervisor. He has also witnessed me running this dangerous (without the guard) piece of equipment.

Gerald Roseleip - He is another dairy supervisor. He also saw me running this grain auger on several occasions. He, as well as the other dairy supervisors, knew that the safety guard was missing.

V. INJURY

How have you been injured by the actions of the defendant(s)? You must state as specifically as possible the actual injury you suffered from the actions of each individual defendant:

VI. RELIEF

State briefly and precisely what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.

Plaintiff's Last Name WEBB

V. INJURY

DAIRY SUPERVISORS: Dave Miller, Dale Solomon, and Gerald Roseleip

All three of these supervisors allowed me to work in unsafe conditions. I was relatively new to the dairy. I did not realize that the safety guard had been removed (for convenience) from the grain auger several years before I started working there.

M.C.E SUPERVISORS: Gail Lambert, and Ross Wagner

These two people are in charge of the M.C.E. Dairy which allowed these unsafe working conditions to exist, not only during the time I worked there, but for several years before my accident. It should be noted that the guard was put back on the grain auger the day after my accident.

STATEMENT OF PLAINTIFF, ROBERT WEBB:

On December 29, 2011, at 8:40 AM, I was in a grain bin at the M.C.E. dairy grainary getting a load of barley. I turned on the auger which goes into the bin, and I crawled in to shovel grain to the auger, which is standard operating procedure.

When I went to get out, I slipped, and my foot was caught in the auger. I started yelling for my co-worker, but he was inside the grainary and could not hear or see me. I was stuck for at least 15 minutes before an inmate from the road crew heard me yelling and came to assist me. It took another 30 minutes to free me.

I broke the big toe on my left foot. Four months later it still hurts me. I cannot run or even walk on it. The medical staff at the prison told me that I may have this problem for the rest of my life. Then there is the mental trauma from the accident which is well documented.

VI. RELIEF

I consider myself a victim of negligence on the part of M.C.E. and its dairy supervisors. Not I or anyone else should have been allowed to operate the grain auger without the safety guard in place, the guard that was designed for it.

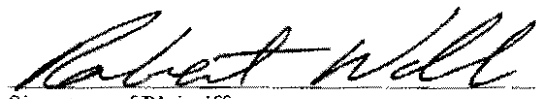
As a result of the indifference if the M.C.E. dairy operation, I may be permanently disabled. I want the court to order the defendants to pay compensation to me in case this becomes a reality.

I would like compensation in the amount of 2,200,000 dollars to cover my future medical costs and also any disability which will affect my ability to earn a living. Like I mentioned before, I have still not recovered from this tragic accident. I don't know if I ever will.

VII. PLAINTIFF'S DECLARATION

- A. I understand that I must keep the Court informed of my current mailing address and that my failure to do so may result in dismissal of this Complaint without actual notice to me.
- B. I declare under penalty of perjury that I am the plaintiff in the above action, that I have read the above complaint, and that the information I have set forth within it is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.
- C. (Prisoners Only) This Complaint was deposited in the prison system for legal mail, postage prepaid or paid by the prison, on May 7th, 20 12.

Executed at Montana State Prison on May 7th, 20 12.
(Location) (Date)



Signature of Plaintiff

(If there is more than one Plaintiff, each Plaintiff must sign the complaint using a separate declarations page).

Rev'd April 2006

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